

**REMARKS**

Claims 1, 2, 4-7, 12-15 and 17-20 are pending.

Claims 1, 2, 4-7, 12-15 and 17-20 stand rejected.

Claim 10 stands objected to.

Claim 10 has been canceled, without prejudice.

Claims 1, 4, 17 and 19 have been amended. Support for these amendments can be found throughout the specification and drawings, as originally filed.

**35 USC §103(a) REJECTION**

Claims 1, 2, 4-7, 12-15 and 17-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,007,798 to Happonen et al. in view of U.S. Patent No. 6,974,030 to Sundstrom.

The Applicants respectfully traverse the 35 U.S.C. §103(a) rejection of claims 1, 2, 4-7, 12-15 and 17-20.

The standard for obviousness is that there must be some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability and, thus, the obviousness, of making" the modification to the art suggested by the Examiner. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q.2d (BNA) 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988). Although the Examiner may suggest the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the desirability of such modification. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d (BNA) 1397, 1398 (Fed. Cir. 1989). There must be a teaching in the prior art for the proposed combination or modification to be proper. *In re Newell*, 891 F.2d 899, 13 U.S.P.Q.2d (BNA) 1248 (Fed. Cir. 1989). If the prior art fails to provide this necessary teaching, suggestion, or incentive supporting the Examiner's suggested modification, the rejection based upon this suggested modification is error and must be reversed. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d (BNA) 1566 (Fed. Cir. 1990).

The law is also clear that a claim in dependent form shall be construed to incorporate all the limitations of the claim to which it refers. 35 U.S.C. 112, fourth

paragraph.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicants has amended claim 1 to recite, among other things, a system for keeping ready bone screws, comprising: (1) a plurality of bone screws; (2) a keeping-ready device for the bone screws, wherein the keeping-ready device includes a first plate with a plurality of orifices for inserting the bone screws and the keeping-ready device allows inserted bone screws to be kept ready countersunk in relation to the surface; and (3) a removal instrument for removing a kept-ready bone screw from the keeping-ready device, wherein the removal instrument is dimensioned such that it is insertable into one of the orifices for removal of a kept-ready bone screw, wherein the orifices are arranged in the surface in a plurality of rows, ***wherein the keeping ready device includes a second plate which is distanced from the first plate to such an extent that the bone screws are kept ready lying on the second plate.***

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicants has amended claim 4 to recite, among other things, a keeping-ready device for bone screws, comprising: (1) a plurality of bone screws; and (2) a surface in which a plurality of orifices for inserting the bone screws is provided, wherein the keeping-ready device allows inserted bone screws to be kept ready countersunk in relation to the surface, the surface including a first plate having a plate area in which the orifices are provided in a plurality of rows, wherein the first plate has a plate thickness wherein the ratio of area to thickness is chosen such that the first plate has no or only slightly springing properties, ***wherein the surface includes a second plate which is distanced from the first plate to such an extent that the bone screws are kept ready lying on the second plate.***

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicants has amended claim 17 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising: (1) a plurality of bone screws; and (2) a surface in which orifices are provided for loosely keeping-ready the bone screws with countersunk bone screw heads in relation to the surface, the orifices having walls that act as a guide for a removal instrument for the bone screws when the removal

instrument is inserted into one of the orifices, the surface including a first plate having a plate area in which the orifices are provided in a plurality of rows, wherein the first plate has a plate thickness wherein the ratio of area to thickness is chosen such that the plate has no or only slightly springing properties, *wherein the surface includes a second plate which is distanced from the first plate to such an extent that the bone screws are kept ready lying on the second plate.*

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicants has amended claim 19 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising: (1) a plurality of bone screws; and (2) a surface including a first plate in which a plurality of orifices for inserting the bone screws is provided, wherein the orifices have portions of a reduced inner diameter for cooperating with bone screw heads and wherein the portions of reduced inner diameter are placed such that the bone screw heads are kept ready ~~loosely and~~ countersunk in relation to the surface, wherein the orifices are arranged in the surface in a plurality of rows, wherein the surface has a thickness wherein the ratio of area to thickness is chosen such that the surface has no or only slightly springing properties, *wherein the surface includes a second plate which is distanced from the first plate to such an extent that the bone screws are kept ready lying on the second plate.*

Neither Happonen et al. or Sundstrom suggest any such system or device of the present invention, as claimed in any of independent claims 1, 4, 17 or 19, or the claims dependent therefrom.

Specifically, as the Examiner has acknowledged, neither Happonen et al. or Sundstrom, either alone or in combination therewith, discloses or suggests a keeping ready device or a surface thereof wherein the keeping ready device or a surface thereof includes a second plate which is distanced from a first plate to such an extent that the bone screws are kept ready lying on the second plate.

Thus, one of ordinary skill in the art would not look to Happonen et al. and/or Sundstrom, either alone or in combination therewith, for guidance on a system or device for keeping bone screws ready, as presently claimed.

Because claim 1 is allowable over Happonen et al. and/or Sundstrom, either alone

or in combination therewith, for at least the reasons stated above, claim 2, which depends from and further defines claim 1, is likewise allowable. Because claim 4 is allowable over Happonen et al. and/or Sundstrom, either alone or in combination therewith, for at least the reasons stated above, claims 5-7 and 12-15, which depend from and further define claim 4, are likewise allowable. Because claim 17 is allowable over Happonen et al. and/or Sundstrom, either alone or in combination therewith, for at least the reasons stated above, claim 18, which depends from and further defines claim 17, is likewise allowable. Because claim 19 is allowable over Happonen et al. and/or Sundstrom, either alone or in combination therewith, for at least the reasons stated above, claim 20, which depends from and further defines claim 19, is likewise allowable.

Accordingly, the Applicants contend that the 35 U.S.C. 103(a) rejection of claims 1, 2, 4-7, 12-15 and 17-20 has been overcome.

### **ALLOWABLE SUBJECT MATTER**

Claim 10 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Applicants respectfully traverse the objection to claim 10.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicants has amended independent claims 1, 4, 17 and 19 to incorporate the limitation of claim 10 therein. Accordingly, the Applicants submit that all of the pending claims of the instant application are in a condition for allowance.

### **CONCLUSION**

In view of the foregoing, the Applicants respectfully request reconsideration and reexamination of the Application. The Applicants respectfully submit that each item raised by Examiner in the Office Action of January 30, 2007 has been successfully traversed, overcome or rendered moot by this response. The Applicants respectfully submit that each of the claims in this Application is in condition for allowance and such allowance is earnestly solicited.

The Examiner is invited to telephone the Applicants' undersigned attorney at (248) 723-0487 if any unresolved matters remain.

Any needed extension of time is hereby requested with the filing of this document.

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 08-2789 for this matter.

Respectfully submitted,

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Date

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